IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 30131 of 1995

Between:

Harijan Sangham, rep. by its President,
Pidimgoyya village, Rajahmundry Rural Mandal.

..... PETITIONER

AND

1. Goverrntment of A.P., rep. by its Secretary,
   Revenue Department Secretriat, Hyderabad.

2. Sub Collector, Rajahmundry Division,

Rajahmundry, E.G.District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction, particularly one in the nature of writ of Mandamus restraining the respondents from interfering with the enjoyment by the petitioner of the lease hold rights for faslis1404 to 1407 in Ac.5-16 cents in r.s.no.511/1c of Pidimgoyya village Rajahmundry rural mandal East Godavari district.

Counsel for the Petitioner: MR.M.KRISHNA MOHAN RAO
Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

THE HONOURABLE SMT. JUSTICE T.MEENA KUMARI

WRIT PETITION NO.30131 OF 1995

ORAL ORDER:

The writ petition is filed questioning the action of the respondents in proposing to cancel the lease granted to the petitioner sangham for the land in R.S.No.511/1C in Pidimgoyya village, Rajahmundry Rural mandal.

2. The petitioner is a Harijan Sangham, which is registered under the Societies Registration Act, made a representation dated 04.01.1994 to the Minister for Animal Husbandry and Dairy Development to sanction land for growing trees i.e., Cashew, Custard and Apple etc., for eaking out their livelihood, and the same was forwarded to the then Sub-Collector for consideration. Though the Society applied for assignment of land, the then R.D.O., under Ref.D.2947/91 dated 17.11.1994, passed orders leasing out an extent of Ac.5-16 cents in survey No.511/1C on temporary basis for faslis 1404 to 1407 to the petitioner society for growing above said trees by fixing rental at Rs.120/- p.a for each fasli. The society planted 320 Cashew plants in the said land by spending Rs.2,880/- and they are now well grown.

3. On the representation submitted by the villagers of petitioner to the Collector for cancellation of lease granted in favour of petitioner society, on the premise that the land in R.S.No.511 is being used by the villagers of Pidimgoyya village for public purpose like burial ground, public lavatories and for festival celebrations at the time of 'Sivarathri' festival, the second respondent issued show cause notice vide Ref.(D) 5943/95 dated 7.12.1995 stating that as to why the lease order granted in favour of petitioner, should not be cancelled as the land in R.S.No.511/1 was classified as government dry (Assessed waste) and reserved for assignment to the Ex-Servicemen only and that the lease order

granted by the Mandal Revenue Officer, Rajahmundry in his Ref.(B) 47/91 dated 17.12.1994 for faslis 1404 to 1407 is irregular and the said lease order is liable for cancellaltion. Aggrieved by the said show cause notice the present writ petition has been filed.

4. No counter affidavit has been filed on behalf of the respondents.

5 . Heard the learned counsel for the petitioner as well as the learned Government Pleader for the respondents.

6. It has been contended by the learned counsel for the petitioner that the second respondent has chosen to cancel the lease without giving any cogent reasons. The learned counsel also further argued that without hearing the petitioner and also without verifying concerned records, the respondents proposed to cancel the lease. The entire survey No.511 consists of Ac.12-60 cents, out of which Ac.4-50 cents was given on lease to one Donapati Subbanna, Ac.1-50 cents is being used for burial ground and Ac.5-16 cents was given on lease to the petitioner sangham and there is still an extent of Ac.1-44 cents which is well sufficient for path way to Siva temple. As per show cause notice, the land in R.S.No.511/1 was classified as Government dry and reserved for assignment to the Ex-Service men. But as per G.O.Ms.No.1406, Rev. dated 25.7.1958, no land can be assigned to the Ex-Service men under the Assignment policy. It should be assigned only either by way of permanent patta or lease to the poor Harijans and landless poor.

7. In view of the fact that the show cause notice itself was issued basing on the report of the Collector and also on the endorsement of the Commissioner, Land Revenue and it has no reference with regard to the respective records, it is to be held that the order is passed in violation of principles of natural justice.

8. Accordingly, the impugned show cause notice is set aside and the matter is remitted to the first respondent for passing appropriate orders after affording

opportunity of hearing the petitioner within three months from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No costs.

_____

T.MEENA KUMARI,J.

Date: 31st March 2005.

BSB

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Revenue Department, Goverrntment of A.P.,

Secretriat, Hyderabad.

2. The Sub Collector, Rajahmundry Division,

Rajahmundry, E.G.District.

3. Two CCs to the Government Pleader for Revenue, High Court of A.P.,

Hyderabad (OUT).

4. Two CD copies

*Form-NIC-OGS/WP{**TML**}*